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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,252	06/23/2003	Virginia R. Kelley	50091.0001USP1	5731

7590 11/30/2004
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EXAMINER

JEFFERY, JOHN A

ART UNIT PAPER NUMBER

3742

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,252

Applicant(s)

KELLEY ET AL.

Examiner

John A. Jeffery

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040623.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Abstract

The abstract of the disclosure is objected to because of the following informalities: The Abstract is too long and must be rewritten without markings to be less than 150 words. Also, the abstract must be a single paragraph on a separate sheet. Correction is required. See MPEP § 608.01(b).

Disclosure Objections

The disclosure is objected to because of the following informalities:

(1) The listing of claims on Pages 4 and 5 of the specification is inappropriate and must be deleted. Patent claims are not part of the specification; rather, they are presented as a separate section independent of the specification. For examination purposes, the examiner presumes applicant intended the claims listed on the separate sheets as the claims of the instant application. Appropriate correction is required.

(2) The structure of Figs. 3 and 4 must be described in the specification.

Applicant is cautioned against the inclusion of new matter.

(3) Last paragraph: "it's" must be changed to "its."

Applicant is advised as to how to arrange the content of the specification.

Art Unit: 3742

(a) **Title of the Invention.** The title of the invention should be placed at the top of the first page of the specification. It should be brief but technically accurate and descriptive.

(b) **Cross-References to Related Applications:** (if any).

(c) **Statement as to Rights to inventions made under Federally sponsored research and development:** (if any).

(d) **Background of the Invention:** The specification should set forth the Background of the Invention in two parts:

(1) **Field of the Invention:** A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions or the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) **Description of the Prior Art:** A description of the prior art known to the applicant and including, if applicable, references to specific prior art problems which are solved by the applicant's invention. This item may also be titled "Background Art."

(e) **Summary:** A brief summary or general statement of the invention is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases, it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(f) **Brief Description of the Drawing(s):** A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(g) **Description of the Preferred Embodiment(s):** A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. This item may also be titled "Best Mode for Carrying Out the Invention." Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their

Art Unit: 3742

exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(h) **Claim(s):** (See 37 CFR 1.75) A claim may be typed with the various elements subdivided in paragraph form. There may be plural indentations to further segregate subcombinations or related steps. The claim(s) must be in one sentence form only.

(i) **Abstract of the Disclosure.** See above.

Drawing Objections

The drawings are objected to because of the following informalities:

(1) All drawing figures must be presented in a separate section independent of the specification. Thus, the inclusion of specification text adjacent Fig. 1 is improper.

(2) All figures must be enlarged for clarity.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the temperature control or thermostat and air flow regulation means in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. **The objection to the drawings will not be held in abeyance.**

Numbering of Claims -- 37 CFR 1.126

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 2 (second occurrence) through 16 have been renumbered 5-19 respectively. If applicant chooses to respond to this action, applicant must reflect this renumbering in future claim listings.

Moreover, (1) claim 7 (as renumbered) is presumed to depend from claim 8, and (2) claim 13 (as renumbered) is presumed to depend from claim 12 for examination purposes.

Claim Objections

Claims 1-19 are objected to because of the following informalities:

The claims are replete with informalities too numerous to mention specifically. Applicant must revise the claims carefully if applicant chooses to respond to this office action. Examples requiring correction are:

Claim 1: In lines 1-2, "and other a heat-resistant material" must be changed to "other heat resistant materials."

Claim 2: In line 1, "headed" must be changed to "heated."

Claim 7: In line 1, "plastic molded plastic" must be changed to "molded plastic."

Art Unit: 3742

Claim 17: In line 1, "it's affective air-weight" must be changed to "its effective weight."

Appropriate correction of these and all other informalities throughout the claims is required.

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

(1) The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

The individual problems with the claims are too numerous to mention specifically. The examiner, however, has identified several representative problems listed below to assist applicant in revising the claims. In short, the claims must be completely revised in proper form if applicant chooses to respond to this office action.

(2) Claims 8-11 and 13-19: All parenthetical expressions must be replaced with a positive recitation of the phrase. For example, the term "(as stated in Claim 1)" must be changed to "of claim 1." Moreover, the preambles of all dependent claims must be

Art Unit: 3742

consistent with the preamble of the independent claim from which the claims depend.

Thus, because independent claim 1 calls for an "apparatus," each claim depending from claim 1 must refer to "[t]he apparatus of claim 1" or other intervening dependent claim as appropriate.

(3) Claims 3, 6, 9, 13, 11, 18, and 19: Transitional phrases, such as "Where applicable," "However," "Optionally¹," "Additionally," etc. are generally improper in claim language and must be deleted. Not only is such language superfluous in patent claims, the language is indefinite since it is unclear in many instances whether the structure following such phrases is intended to be positively recited. Applicant is reminded that all dependent claims must refer to the independent claim or intervening dependent claims from which they depend.

(4) Claim 2: In line 1, "shall may be made appropriate materials to transport and direct headed" is vague and indefinite. The test for definiteness under 35 U.S.C. § 112, second paragraph is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986). Here, even when read in light of the specification, it is unclear (1) what materials constitute "appropriate" materials, and (2) whether the apparatus must -- or optionally -- be made from such materials.

¹ Applicant is reminded that all claims with features recited as "optional" (e.g., claim 12) or "alternately" (e.g., claim 13) are not necessarily part of the claim. Therefore, claims reciting such optional or alternative features are fully met by prior art that otherwise discloses all other positively-recited claimed features -- even if the optional or alternative features are not shown in the prior art.

(5) Claims 2, 3, 6, 7, 10-19: In all claims, the term "may" must be changed to more positive recitation to clearly and positively recite the structure claimed. Patent claims must positively and clearly recite what the structure is -- not what it might or could be.

(6) Claim 6: The claim is vague and indefinite since it is unclear what is meant structurally by daisy chaining from "multiple sources" even when read in light of the specification.

(7) Claim 12: The claim must depend from claim 8.

(8) Claim 4: In line 1, "shall have" must be changed to "further comprising" and "which shall provide" must be changed to "including."

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 USC 102(b) as being anticipated by Alverson (US 5,844,202). Alverson (US 5,844,202) discloses a portable windshield defroster comprising a housing 12 mounted to vehicle dashboard 30A. An electric heater 24 and fan motor 26 is contained within the housing to direct heated air to nozzles 12LC, 12RC via ducts 12LB, 12RB. The nozzles are disposed directly below windshield 30B to melt ice thereon. See Figs. 1-3 and col. 5, line 3 - col. 7, line 2.

Art Unit: 3742

Regarding claim 4, note temperature control 22 and "air flow regulation" that is fully met by ON/OFF switch 18 that energizes and deenergizes fan motor 26.

Other Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should (1) separately consider the art, and (2) consider the art together with the previously cited prior art for potential applicability under 35 U.S.C. §§ 102 or 103 when responding to this action. US 130, US 203, US 228, US 615, US 358, US 368, US 844, US 678, US 750, US 754, US 292, US 940, US 563, US 217, US 498, US 608, FR 692, DE 567, BE 575, FR 683, GB 955, GB 699, DE 040, DE 654, CA 924 disclose vehicle windshield convection heaters relevant to the instant invention.

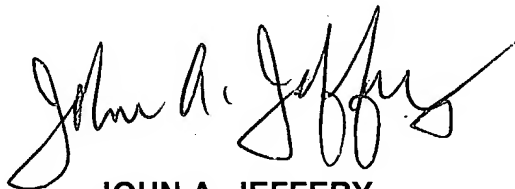
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Jeffery whose telephone number is (571) 272-4781. The examiner can normally be reached on Monday - Thursday from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans, can be reached on (571) 272-4777. All faxes should be sent to the centralized fax number at (703) 872-9306.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "John A. Jeffery", with a stylized flourish at the end.

**JOHN A. JEFFERY
PRIMARY EXAMINER**

11/24/04